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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,424	01/14/2002	Alain Constancis	8-1032-169	5434

7590 01/28/2004  
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EXAMINER  
RUSSEL, JEFFREY E

ART UNIT	PAPER NUMBER
1654	

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/914,424

Applicant(s)

CONSTANCIS ET AL.

Examiner

Jeffrey E. Russel

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1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 22-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-27, 29-35 and 37-43 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 28, 36 and 44-49 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

1. The amendment to the specification filed December 18, 2003 was not entered because it was not submitted in proper form. There is no provision in the amendment rules for amendment by substitute pages. Amendments to the specification must be by substitute paragraphs (see 37 CFR 1.121(b) or by substitute specification (see 37 CFR 1.125).

In the amendment to claim 28 submitted December 18, 2003, the superscript minus sign after "COO" in the second-to-last line of the claim was deleted without the change being shown by marking as required by 37 CFR 1.121(c)(1). In the amendment to claim 36, " $\alpha$ " was changed to "a" without marking as required by 37 CFR 1.121(c)(1). In the amendment to claim 44, the semicolon which occurred at the end of the last line was changed to a period without marking as required by 37 CFR 1.121(c)(1). Any future amendments should be carefully checked to ensure compliance with the amendment rules.

2. The abstract of the disclosure is objected to because of the occurrence of legal phraseology "said" and "means". Correction is required. See MPEP § 608.01(b).

The amendment to the Abstract contains the same text as the Abstract previously submitted on August 28, 2001, and still uses the word "means".

3. The disclosure is objected to because of the following informalities: At page 10, line 18, "alicyclics" is misspelled. At page 10, line 33, one of the two occurrences of "nature" should be deleted. Appropriate correction is required.

4. Claims 28, 36, and 44-49 are objected to because of the following informalities: At claim 28, second-to-last line, a superscript minus sign needs to be inserted after "COO" and before the comma. At claim 36, page 10 of the amendment, line 1, before "-hydroxycarboxylic", "a" needs to be changed to " $\alpha$ ". At claim 44, line 4, the comma after "solution" should be deleted. At

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claim 45, lines 4 and 7, and at page 13, lines 6 and 7, the commas need to be deleted. At claim 46, page 14, line 1, both commas in the line need to be deleted. At claim 47, lines 7 (both occurrences) and 10, the commas need to be deleted. At claim 49, line 4, "biocompatible" is now misspelled. Appropriate correction is required.

5. Claims 22-27, 29-35, and 37-43 are allowed.

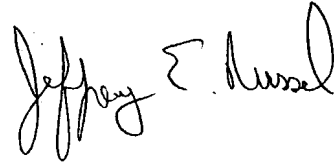
6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey E. Russel at telephone number (571) 272-0969. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Brenda Brumback can be reached at (571) 272-0961. The fax number for Technology Center 1600 for formal communications is (703) 872-9306; for informal communications such as proposed amendments, the fax number (571) 273-0969 can be used. The telephone number for the Technology Center 1600 receptionist is (703) 308-0196.

A handwritten signature in black ink, appearing to read "Jeffrey E. Russel". The signature is fluid and cursive, with the first name "Jeffrey" being more prominent and the last name "Russel" following in a similar style.

Jeffrey E. Russel

Primary Patent Examiner

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JRussel

January 22, 2004